THE HON'BLE SRI JUSTICE C.V. RAMULU

Monday, 10th day of July,2006

W.P.No.2296 of 1998

Between :

Pithapuram Branch Channel III,
Panduru Water Users Association,
Rep.by its President V. Nookaraju … Petitioner

and

Government of A.P., rep. by
Secretary, Irrigation Department,
Secretariat, Hyderabad & others … Respondents

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ORAL ORDER:

Petitioner is Panduru Water Users' Association, represented by its President V. Nooka Raju. Its grievance is that the 3rd respondent was working as Executive Engineer, Godavari Head Works Division, Dowleswaram in the year 1995. While so, one Damera venkata Tirupathi Rao submitted a representation dated 13-6-1995 to the 3rd respondent in his capacity as Executive Engineer requesting to grant him lease of two steel barges B11 and B27 belonging to the Irrigation Department on hire, offering to pay rent as per rules. Respondent No.3 forwarded the said representation to P.W. Workshop at Dowleswaram with a request to spare two steel barges on hire basis. According to the petitioner, as per the Departmental Rules i.e. vide Para 340(3) and 340(4) of A.P.W.D.Code, any Tools and Plant proposed to be spared on hire basis should be lent out only after concluding necessary agreement with the competent authority and by collecting hire charges and deposit of amount equal to the full market value or the original cost of barges, whichever is more. On the instructions of the 3rd respondent, one Kondala Rao, the then Board Superintendent delivered two steel barges B11 and B27 without crew to D.V.Tirupathi Rao, Contractor, Kakinada on 4-7-1995 by collecting just hire charges of Rs.42,760/- for one month from 4-7-1995 to 2-8-1995. No agreement was entered into between the parties. The value of the steel barges was Rs.17,60,000/-. Thereafter, D.V. Tirupathi Rao,

Contractor, informed the Department that the two steel barges were found missing due to heavy gales and drifted into the sea. The Joint Collector lodged a complaint with the police to investigate and trace out the steel barges. Thus, there is a loss of Rs.17,60,000/- and hire charges of Rs.25,000/- per month per barge, to the exchequer of the State. Till date, no legal action has been initiated against D.V.Tirupathi Rao nor any suit is filed for recovery of money. Therefore, instead of taking action against the 3rd respondent, he was rewarded with promotion. As such, the petitioner seeks a declaration that the action of respondents 1 and 4 in not taking appropriate steps including disciplinary action against the 3rd respondent, instead promoting him as Superintending Engineer as arbitrary and illegal and consequently to direct respondents 1 and 4 to take appropriate action against the 3rd respondent.

There is no necessity of going into the genesis of this litigation nor examination as to the *locus standi* of the petitioner in view of the counter filed by the 4th respondent stating that disciplinary action has already been initiated and concluded against the 3rd respondent imposing a minor punishment of stoppage of two annual grade increments without cumulative effect and further, proceedings were initiated for recovery of an amount of Rs.4,03,600/-. In view of the above, there is no necessity of adjudicating the matter at this length of time.

Accordingly, the Writ Petition is closed. No costs.

10-7-2006

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